

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1376.

(Given pursuant to section 4 of the Food and Drugs Act.)

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### MISBRANDING OF BERRY'S FRECKLE OINTMENT.

On September 28, 1911, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed two libels in the District Court of the United States for said district praying condemnation and forfeiture of 96 jars and 84 jars of Dr. C. H. Berry's Freckle Ointment, 18 jars of which were in the possession of the Golden Rule (Inc.), 78 jars in the possession of Noyes Bros. & Cutler, and 84 jars in the possession of the Minneapolis Drug Co., respectively, all of the city of Minneapolis, Minn. Each of the said jars containing said product was labeled as follows: (On carton) "Dr. C. H. Berry's Freckle Ointment—for freckles, tan, moth patches, muddy complexion and all discolorations of the skin. \* \* \* Dr. C. H. Berry Company—Chicago, New York.—Guaranteed by Dr. C. H. Berry Company under the Food and Drugs Act, June 30, 1906. Serial Number 8176 —" (Label on jar) "Dr. C. H. Berry's Freckle Ointment—Positively removes freckles and tan \* \* \* Dr. C. H. Berry Co., Chicago New York \* \* \* Rub a small quantity of the ointment into discolorations before retiring—No. 8176. Guaranteed by Dr. C. H. Berry Co." (On small circular enclosed with jar in carton) "Directions for using this cream \* \* \* There is positively nothing injurious in any of our preparations. They are strictly hygienic and work wonders for the complexion. \* \* \* Dr. C. H. Berry Company."

Analysis of a sample of said product, made by the Bureau of Chemistry of the United States Department of Agriculture, showed it to contain about 12 per cent of ammoniated mercury and 0.7 per cent of zinc oxide. The libels alleged that the product, after transportation from the State of Illinois into the State of Minnesota,

remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged in each libel for the reason that the circular packed in each carton and with each and all of the jars of said product, containing directions for using same, bore statements regarding the ingredients and substances contained in said jars which were false and misleading, in that it was declared on each of said circulars that "there is positively nothing injurious in any of our preparations," when, in fact, the said product is injurious in this, to wit, that it contains a large quantity of a poisonous substance, to wit, 11.63 per cent of ammoniated mercury.

On November 20, 1911, the cases coming on for hearing and no one having appeared as claimant, or filed answer, the court found the product in each case misbranded as alleged in the libel and entered decrees condemning and forfeiting the same to the United States, and ordering the complete destruction thereof by the marshal.

W. M. HAYS,

*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *February 1, 1912.*

